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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,120

12/09/2005

Meinhard Schwaiger

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EXAMINER

NICHOLS, CHRISTOPHER S

ART UNIT

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1791

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,120	<b>Applicant(s)</b> SCHWAIGER ET AL.	
	<b>Examiner</b> Christopher S. Nichols	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/9/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**METHOD AND DEVICE FOR PRODUCING PLASTIC PROFILES**

***Drawings***

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d).

***Specification***

2. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 32 and 34-35 are rejected under 35 U.S.C. 102(b) as being anticipated by De Zen (WO 96/29186).

Regarding **Claim 32**, De Zen teaches a take-off device for plastic profiles which is configured as a caterpillar belt puller with two parallel pairs of caterpillar belts provided side by

side (see Fig. 2 at 17 and 18). The caterpillar belts are capable of being moved independently of each other (see page 8 line 14-21) or both together for a single profile stream (see Fig. 13).

Regarding **Claim 34**, De Zen teaches that the caterpillar belt pairs can be connected to pull a single profile stream (see Fig. 13; see page 14 line 28-30).

Regarding **Claim 35**, De Zen teaches that the distance between the middle axes of the caterpillar belts is adjustable (see page 10 line 31-34). In addition, adjustability is not a patentable advance. *In re Stevens*, 212 F.2d 197, 101 USPQ 284 (CCPA 1954).

Regarding **Claim 36**, De Zen teaches cutting the two profile streams by two cutting tools that are moveable independently of each other in the longitudinal direction (see page 11 line 33-34; see also page 12 line 1-15; see also Figure 8 at 71, 72, 75 and 77).

Regarding **Claim 37**, De Zen teaches the cutting tools are placed side by side (see page 11 line 33-34; see also page 12 line 1-15; see also Figure 8 at 71, 72, 75 and 77).

Regarding **Claim 40**, Dezen teaches using saws as cutting tools (Figure 8 at 77).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Zen (WO 96/29186) in view of Smoluk (G. Smoluk, "Downstream Hardware Keeps Up With Pipe,

Tubing and Profile Extrusion" in Modern Plastics International, Vol. 18, No. 12, Dec. 1988, pp. 49- 53).

Regarding **Claim 21**, De Zen teaches simultaneously extruding at least two profile streams (see Fig. 1 at 10 and 11; see also Abstract). Each profile stream is cooled and calibrated in at least one calibrating device (see Fig. 1 at 12a, 12b, 12c, 13a, 13b, and 13c; see also page 7 line 17-31; page 8 line 1-10). Each profile stream has its own calibrating device (see Fig. 1 at 12a, 12b, 12c, 13a, 13b). Additionally, each profile streams is taken off by a caterpillar pulling device (see Fig. 1 at 17 and 18; see also page 8 line 11-21) and sized to profile sections by a cutting device (see Fig. 2 at 20 and 21; see also page 8 line 23-28).

De Zen is silent regarding the calibrator tools being shifted in the longitudinal direction. Smoluk teaches longitudinally adjusting calibrator tools in a multiple stream extrusion line (see page 49 column 3; see also page 50 column 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use calibrating tools that are longitudinally adjustable in the method by De Zen because Smoluk teaches calibrating tools that are longitudinally adjustable allow the tools to align with extrudate travel without having to reposition the entire machine (see page 50 column 1).

Regarding **Claim 22**, De Zen teaches making two profile streams by two independent extruder units (see Fig. 1 at 7 and 8).

Regarding **Claim 23**, De Zen teaches cutting the two profile streams by a cutting tool comprising at least two saws or knives that are moveable independently of each other (see page 11 line 33-34; see also page 12 line 1-7).

Regarding **Claim 24**, De Zen teaches a device for the cooling and calibrating of plastic profiles with a carrier table (see Fig. 1) carrying at least two tool mounting stations (see Fig. 1) on which the calibrator tools groups (see Fig. 1 at 12a, 12b, 12c, 13a, 13b, and 13c) can be detachably mounted and can either hold a separate calibrator tool group or may be coupled to support a single calibrator group.

De Zen is silent regarding the calibrator tools being shifted in the longitudinal direction. Smoluk teaches longitudinally adjusting calibrator tools in a multiple stream extrusion line (see page 49 column 3; see also page 50 column 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use calibrating tools that are longitudinally adjustable in the method by De Zen because Smoluk teaches calibrating tools that are longitudinally adjustable allow the tools to align with extrudate travel without having to reposition the entire machine (see page 50 column 1).

Regarding **Claim 25**, Smoluk teaches the mounting stations are height adjustable (see page 49 column 3; see also page 50 column 1).

Regarding **Claim 26**, Smoluk teaches the tool mounting stations are tiltable about their longitudinal axes (see page 49 column 3; see also page 50 column 1).

Regarding **Claim 27**, Smoluk teaches the mounting stations may be moved in longitudinal direction, in transversal direction and in vertical direction, and can be tilted about a longitudinal axis (see page 49 column 3; see also page 50 column 1).

Regarding **Claim 28**, De Zen teaches that the tool mounting stations hold at least one dry calibrator unit and at least one calibrating tank (see Fig. 1 at 12a, 12b, 12c, 13a, 13b, 13c, 14 and 15; see also page 7 line 22-31).

Regarding **Claim 30**, De Zen teaches independently controlled vacuum connections (see Fig. 1 at 14') and pumps (see Fig. 1 at 14) provided to the two calibrator groups.

Regarding **Claim 31**, De Zen teaches independently controlled water connections (see Fig. 1 at 16) provided to the two calibrator groups.

Regarding **Claim 38**, De Zen does not clearly teach utilizing a third cutting tool. Smoluk teaches that a variety of cutting methods and devices are used depending upon a variety of factors such as cutting accuracy, cutting efficiency, cutting uniformity, etc. (see page 50 column 3; see also page 51). Therefore, one of ordinary skill in the art at the time of the invention would recognize that a third cutting tool could be added to the device taught by De Zen based upon the desired cutting accuracy, efficiency and uniformity. Furthermore, adding a third cutting tool is mere duplication of parts. "Mere duplication of parts has no patentable significance." *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Regarding **Claim 39**, De Zen teaches utilizing cutting tools that are separately moveably in the longitudinal direction (see page 11 line 33-34; see also page 12 line 1-15; see also Figure 8 at 71, 72, 75 and 77). The addition of another cutting tool is merely duplication of parts. Thus, a third cutting tool would move in the same direction as the other cutting tools.

Regarding **Claim 41**, De Zen is silent regarding the cutting tools being configured as knives. Smoluk teaches using saws or knives as cutting tools in a multiple stream extrusion process (see page 50 column 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use knives as the cutting tools in the method taught by De Zen because Smoluk teaches the knives are a known alternative to saws in a multiple stream extrusion process (see page 50 column 3; see also page 51). Furthermore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to use knives as the cutting tool in the method taught by De Zen because one of ordinary skill in the art would have been able to carry out such a substitution to achieve the predictable result of cutting an extrudate in a multiple stream extrusion process. "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007).

7. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Zen (WO 96/29186) in view of Smoluk as applied to Claims 24-28 and 30-31 above, and further in view of Magazin Extrusion, November 2001, pp. 82-83 and 106.

Regarding **Claim 29**, De Zen does not clearly teach the calibrator table moving in the longitudinal direction. Magazin Extrusion teaches a longitudinally movable calibration table (see Figure on page 106; see also column 2 last paragraph). A person of ordinary skill in the art, upon reading Magazin Extrusion, would have recognized that a longitudinally movable calibration table is one of a finite number of devices known to be useful for dual extrusion equipment. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to try the calibration table of Magazin Extrusion in the method by De Zen in view of Smoluk because a person with ordinary skill has good reason to pursue the known option within his or her technical grasp. "A person of ordinary skill has good reason to pursue the known option within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense." *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007).



Regarding **Claim 33**, De Zen is silent regarding separating the caterpillar pairs by a removable wall. Magazin Extrusion teaches utilizing a wall between two profile stream lines in a process (see Figure on page 106). Furthermore, it is well known to delineate two areas using a removable wall, partition, or guard. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a wall to delineate the two caterpillar pairs because a removable wall separates the two different processes which reduces undesired contamination between profile lines.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Nichols whose telephone number is (571) 270-3969. The examiner can normally be reached on Monday thru Thursday 7:30 AM to 5:00 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner: Nichols

**/Christopher S. Nichols/  
Examiner, Art Unit 1791**

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Supervisory Patent Examiner, Art Unit 1791**